



Agricultural Marketing Service

7 CFR Part 27

[Doc. No. AMS-CN-22-0061]

Redefining Bona Fide Cotton Spot Markets

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the regulation that defines two of the seven designated spot markets and changing the names of the affected markets. Specifically, market price data for cotton grown in Oklahoma and Kansas are reassigned from the East Texas/Oklahoma spot market to the West Texas spot market. This action also changes the names of these two markets to describe the markets more accurately.

DATES: Effective August 1, 2023.

FOR FURTHER INFORMATION CONTACT: Barbara Meredith, Division Director, Cotton Market News, Cotton & Tobacco Program, AMS, USDA, 3275 Appling Road, Room 10, Memphis, TN 38133. Telephone: (901) 384-3300, or E-mail: [Barbara.Meredith @usda.gov](mailto:Barbara.Meredith@usda.gov).

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Agriculture is authorized under the United States Cotton Futures Act (7 U.S.C. 15b) to designate at least five bona fide spot markets from which cotton price information can be collected. A spot market - also called the “cash market” or “physical market” - is a market where commodities are sold on the spot for cash at current market prices and delivered immediately. Updated designations for these bona fide spot markets and the determination of which counties and states compose each of these spot markets were most recently published in the **Federal Register** on April 30,

2013 (78 FR 25181). For each of these bona fide spot markets, the Agricultural Marketing Service's (AMS) Cotton and Tobacco Program collects market price information under the United States Cotton Futures Act (7 U.S.C. 15b), the Cotton Statistics and Estimates Act (7 U.S.C. 473b) and the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g)). This price information is then used to calculate price differences for cotton futures contracts.

The Cotton and Tobacco Program (Program) received a request from the American Cotton Shippers Association (ACSA) and the National Cotton Council of America (NCC), to evaluate the structure of the cotton spot markets in East and West Texas, Oklahoma, and Kansas. The Program's analysis of the East Texas/Oklahoma market determined that cotton grown in Oklahoma and Kansas has similar quality characteristics and was traded under the same terms and conditions as West Texas cotton. Further, the analysis showed that there was not any significant difference in the prices reported to Cotton and Tobacco Market News when comparing Oklahoma and Kansas cotton to West Texas cotton. As a result, ACSA and NCC requested that market price data for cotton grown in Oklahoma and Kansas be reassigned from the East Texas/Oklahoma spot market to the West Texas spot market by amending the definitions of cotton spot markets in 7 CFR part 27. Revisions to the regulations concerning bona fide spot market definitions are necessary to assure consistency with the revised Cotton Research and Promotion Act and to allow for published spot quotes to consider spot prices of cotton marketed in Kansas and Oklahoma. Corresponding changes the names of these two spot markets are made to describe the markets more accurately.

Comment Summary and Analysis

A proposed rule concerning this action was published in the **Federal Register** on March 27, 2023 (88 FR 18076). A copy of the proposed rule was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period

ending May 26, 2023, was provided for interested persons to respond to the proposal. AMS received a total of seven comments. Six of the seven comments were explicitly supportive of the proposed action and one expressed concern about market concentration within the U.S. cotton industry, which is not relevant to the proposed action. Accordingly, no changes were made to the rule as proposed.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Order 12866

This proposed rule has been determined to be non-significant for purposes of Executive Order 12866; and, therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are an estimated 25,000 cotton growers in the U.S. who voluntarily use the AMS

cotton classing services annually, and the majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR 121.201).

Changes in cotton spot market definitions as stated will not significantly affect small businesses as defined in the RFA because:

- (1) How spot prices are estimated are not expected to be impacted by this action;
- (2) Business practices of the U.S. cotton industry are not expected to change as a result of this action;
- (3) Costs associated with providing market news services will not be significantly changed by this action;
- (4) Market news services are paid for by appropriated funds; therefore, users are not charged fees for the provision of the services.

Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320), which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501), the information collection requirements contained in the provisions amended by this rule have been previously approved by OMB and were assigned OMB control number 0581-0009, Cotton Classification and Market News Service. No changes in these requirements will be necessary as a result of this rule. Should any changes become necessary, they will be submitted to OMB for approval.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

List of Subjects in 7 CFR Part 27

Commodity futures, Cotton.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 27 as follows:

**PART 27 - COTTON CLASSIFICATION UNDER COTTON FUTURES
LEGISLATION**

1. The authority citation for 7 CFR part 27 continues to read as follows:

Authority: 7 U.S.C. 15b, 7 U.S.C. 473b, 7 U.S.C. 1622(g).

2. In § 27.93, the definitions of the “East Texas and Oklahoma,” and “West Texas” markets are revised to read as follows:

§ 27.93 Bona fide spot markets.

* * * * *

East Texas and South Texas

Texas counties east of and including Montague, Wise, Parker, Erath, Comanche, Mills, San Saba, Mason, Sutton, Edwards, Kinney, Maverick, Webb, Zapata, Star and Hidalgo counties.

West Texas, Kansas, and Oklahoma

All counties in Kansas and Oklahoma, all Texas counties not included in the East Texas, South Texas, and Desert Southwest Markets and the New Mexico counties of Union, Quay, Curry, Roosevelt, and Lea.

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3. In § 27.94, paragraph (a) is revised to read as follows:

§ 27.94 Spot markets for contract settlement purposes.

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(a) For cotton delivered in settlement of any No. 2 contract on the Intercontinental Exchange (ICE); Southeastern, North and South Delta, East Texas and South Texas, West Texas, Kansas, Oklahoma, and Desert Southwest.

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Erin Morris,

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Agricultural Marketing Service.

[FR Doc. 2023-16295 Filed: 7/31/2023 8:45 am; Publication Date: 8/1/2023]